

\$ \_\_\_\_\_  
CARLSBAD UNIFIED SCHOOL DISTRICT  
(San Diego County, California)  
2016 General Obligation Refunding Bonds

PAYING AGENT AGREEMENT

**THIS PAYING AGENT AGREEMENT** (the “Agreement”), is entered into as of \_\_\_\_\_, 2016, between the Carlsbad Unified School District (the “District”), and the County of San Diego acting through the Office of the Treasurer–Tax Collector, San Diego County, California (the “County”), as Paying Agent and Registrar.

*RECITALS*

**WHEREAS** the District has duly authorized and provided for the issuance of its Bonds, entitled the “Carlsbad Unified School District (San Diego County, California) 2016 General Obligation Refunding Bonds” (the “Bonds”) in an aggregate principal amount of \$ \_\_\_\_\_. The Bonds will be issued as fully registered book-entry bonds without coupons;

**WHEREAS** the District will ensure that all things necessary to make the Bonds the valid obligations of the District, in accordance with their terms and the requirements of State of California (“State”) law, will be done upon the issuance, sale and delivery thereof;

**WHEREAS** the District and the County wish to provide the terms under which County will act as Paying Agent to pay the principal, redemption premium (if any), and interest on the Bonds, in accordance with the terms thereof, and under which the County will act as Registrar for the Bonds;

**WHEREAS** the County has agreed to serve in such capacities for and on behalf of the District and has full power and authority to perform and serve as Paying Agent and Registrar for the Bonds;

**WHEREAS** the District and the County have each authorized the execution and delivery of this Agreement; and all things necessary to make this Agreement a valid agreement have been done.

**NOW, THEREFORE**, it is mutually agreed as follows:

**ARTICLE ONE**

**DEFINITIONS**

**Section 1.01. Definitions.**

For all purposes of this Agreement except as otherwise expressly provided or unless the context otherwise requires:

**“Bond”** or **“Bonds”** means any one or all of the \$ \_\_\_\_\_ in aggregate principal amount of bonds entitled “Carlsbad Unified School District (San Diego County, California) 2016 General Obligation Refunding Bonds.”

**“Bond Register”** means the book or books of registration kept by the County in which are maintained the names and addresses of, and principal amounts registered to, each Registered Owner.

**“Bond Resolution”** means the Resolution of the District pursuant to which the Bonds were issued.

**“County”** means the Office of the Treasurer–Tax Collector, County of San Diego, California.

**“District”** means Carlsbad Unified School District.

**“District Request”** means a written request signed in the name of the District and delivered to the County.

**“DTC”** or **“Depository”** means The Depository Trust Company, New York, New York, a limited purpose trust company organized under the laws of the State of New York in its capacity as securities depository for the Bonds.

**“Fiscal Year”** means the fiscal year of the District ending on June 30 of each year.

**“Paying Agent”** means the County when it is performing the function of paying agent for the Bonds.

**“Person”** means any individual, corporation, partnership, joint venture, association, joint stock company, trust, unincorporated organization or government or any agency or political subdivision of a government or any entity whatsoever.

**“Purchase Agreement”** means that certain Bond Purchase Agreement entered into by and between the District and the initial Underwriter of the Bonds. A copy of the Purchase Agreement shall be included in the transcript of proceedings prepared for the Bonds and furnished to the County.

**“Registered Owner”** means a Person in whose name a Bond is registered in the Bond Register.

**“Registrar”** means the County when it is performing the function of registrar and/or transfer agent for the Bonds.

## **ARTICLE TWO**

### **APPOINTMENT OF COUNTY AS PAYING AGENT AND REGISTRAR**

#### **Section 2.01. Appointment and Acceptance.**

The District hereby appoints the County to act as Paying Agent with respect to the Bonds, to pay, or to provide for payment, to the Registered Owners in accordance with the terms and provisions of this Agreement and the Bond Resolution, the principal of, redemption premium (if any), and interest on all or any of the Bonds.

The District hereby appoints the County as Registrar with respect to the Bonds. As Registrar, the County shall keep and maintain for and on behalf of the District books and records as to the ownership of

the Bonds and with respect to the transfer and exchange thereof as provided herein and in the Bond Resolution.

The County hereby accepts its appointment, and agrees to act as Paying Agent and Registrar.

**Section 2.02. Compensation.**

As compensation for the County's services as Paying Agent and Registrar, the District hereby agrees to pay the County the fees and amounts set forth in Exhibit A.

In addition, the District agrees to reimburse the County, upon its request, for all reasonable and necessary out-of-pocket expenses, disbursements, and advances, including without limitation the reasonable fees, expenses, and disbursements of its agents and attorneys made or incurred by the County in connection with entering into and performing under this Agreement, and in connection with investigating and defending itself against any claim or liability in connection with its performance hereunder.

**ARTICLE THREE**

**PAYING AGENT**

**Section 3.01. Duties of Paying Agent.**

As Paying Agent, the County, provided sufficient collected funds have been provided to it for such purpose, shall pay on behalf of the District the principal of, redemption premium (if any), and interest on each Bond in accordance with the provisions of the Bond Resolution. The Paying Agent shall give any notice of redemption as provided in the Bond Resolution; provided however that, as long as the DTC is the registered owner of the Bonds and DTC's book-entry method is used for the Bonds, the Paying Agent will send any notice of redemption or other notices to the registered owners only to DTC.

**Section 3.02. Payment Dates.**

The District hereby instructs the County to pay the principal of, redemption premium (if any), and interest on the Bonds on the dates specified in the Bond Resolution.

**ARTICLE FOUR**

**REGISTRAR**

**Section 4.01. Initial Delivery of Bonds.**

The Bonds will be initially registered and delivered to or upon the order of the purchaser designated by the District as one Bond for each maturity. If such purchaser delivers a written request to the County not later than five business days prior to the date of initial delivery, the County will, on the date of initial delivery, deliver Bonds of authorized denominations, registered in accordance with the instructions in such written request.

#### **Section 4.02. Duties of Registrar.**

The County shall provide for the proper registration of transfer, exchange and replacement of the Bonds. Every Bond surrendered for transfer or exchange shall be duly endorsed or be accompanied by a written instrument of transfer, the signature of which has been guaranteed by an eligible guarantor institution, in a form acceptable to the County, duly executed by the Registered Owner thereof or his attorney duly authorized in writing. The Registrar may request any supporting documentation it deems necessary or appropriate to effect a re-registration.

Any Bond may be exchanged for Bonds of the same series of like tenor, maturity and principal amount upon presentation and surrender at the principal office of the Paying Agent together with a request for exchange signed by the owner or by a person legally empowered to do so in a form satisfactory to the Paying Agent.

#### **Section 4.03. Unauthenticated Bonds.**

The District shall provide to the County on a continuing basis, an adequate inventory of unauthenticated Bonds to facilitate transfers. The County agrees that it will maintain such unauthenticated Bonds in safekeeping.

#### **Section 4.04. Form of Bond Register.**

The County as Registrar will maintain its records as Bond Registrar in accordance with the County's general practices and procedures in effect from time to time. The County as Paying Agent will keep or cause to be kept at its principal office sufficient books for the registration and transfer of the Bonds, which upon reasonable notice shall be open to inspection by the District.

#### **Section 4.05. Reports.**

The District may request the information in the Bond Register at any time the County is customarily open for business, provided that reasonable time is allowed the County to provide an up-to-date listing and to convert the information into written form.

The County will not release or disclose the content of the Bond Register to any person other than to the District at its written request, except upon receipt of a subpoena or court order or as may otherwise be required by law. Upon receipt of a subpoena or court order the County will notify the District.

#### **Section 4.06. Cancelled Bonds.**

All Bonds surrendered for payment, redemption, transfer, exchange, or replacement, if surrendered to the County, shall be promptly cancelled by it and, if surrendered to the District, shall be delivered to the County and, if not already cancelled, shall be promptly cancelled by the County. The District may at any time deliver to the County for cancellation any Bonds previously authenticated and delivered which the District may have acquired in any manner whatsoever, and all Bonds so delivered shall be promptly cancelled by the County. All cancelled Bonds shall be held by the County for its retention period then in effect and shall thereafter be destroyed and evidence of such destruction furnished to the District upon its written request.

## **ARTICLE FIVE**

### **THE COUNTY**

#### **Section 5.01. Duties of County.**

The County undertakes to perform the duties set forth herein. No implied duties or obligations shall be read into this Agreement against the County. The County hereby agrees to use the funds deposited with it for payment of the principal of, redemption premium (if any), and interest on the Bonds to pay the same as it shall become due and further agrees to establish and maintain such accounts and funds as may be required for the County to function as Paying Agent.

#### **Section 5.02. Reliance on Documents, Etc.**

The County may conclusively rely, as to the truth of the statements and correctness of the opinions expressed therein, on certificates or opinions furnished to the County by the District.

The County shall not be liable for any error of judgment made in good faith except to the extent caused by the County's gross negligence or willful misconduct in connection with any act or omission hereunder.

No provision of this Agreement shall require the County to expend or risk its own funds or otherwise incur any financial liability for performance of any of its duties hereunder, or in the exercise of any of its rights or powers.

The County may rely, or be protected in acting or refraining from acting, upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, note, security or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties. The County need not examine the ownership of any Bond, but shall be protected in acting upon receipt of Bonds containing an endorsement or instruction of transfer or power of transfer which appears on its face to be signed by the Registered Owner or agent of the Registered Owner.

The County has no responsibility or liability for any aspects of the records relating to or payments made on account of beneficial ownership, or for maintaining, supervising or reviewing any records relating to beneficial ownership or interest on the Bonds.

The County may consult with counsel, and the written advice or opinion of counsel shall be full authorization and protection with respect to any action taken, suffered or omitted by it hereunder in good faith and reliance thereon.

The County may not exercise any of the powers hereunder and perform any duties hereunder through agents or attorneys without the prior written approval of the District. The County shall not be liable for the actions of such agent or attorney if appointed by it with reasonable care, except to the extent such actions are caused by such agent or attorneys gross negligence or willful misconduct.

#### **Section 5.03. Recitals of District.**

The recitals contained in the Bond Resolution and the Bonds shall be taken as the statements of the District, and the County assumes no responsibility for their correctness.

**Section 5.04. May Own Bonds.**

The County, in its individual or any other capacity, may become the owner or pledgee of Bonds with the same rights it would have if it were not the Paying Agent and Registrar for the Bonds.

**Section 5.05. Money Held by County.**

Money held by the County hereunder need not be segregated from other funds. Money held hereunder will be deposited in the District's Debt Service Fund and invested in the County investment pool and invested by the County Treasurer pursuant to its duties as Treasurer prior to the principal and interest payment dates of the Bonds and the District is entitled to receive interest earnings on such funds.

Any money deposited with or otherwise held by the County for the payment of the principal, redemption premium (if any), or interest on any Bond and remaining unclaimed for one year after such deposit will be paid by the County to the District, and the District and the County agree that the Registered Owner of such Bond shall thereafter look only to the District for payment thereof, and that all liability of the County with respect to such moneys shall thereupon cease.

**Section 5.06. Other Transactions.**

The County may engage in or be interested in any financial or other transaction with the District.

**Section 5.07. Interpleader.**

The District and the County agree that the County may seek adjudication of any adverse claim, demand, or controversy over its person as well as funds on deposit, in a court of competent jurisdiction. The District and the County further agree that the County has the right to file an action in interpleader in any court of competent jurisdiction to determine the rights of any person claiming any interest herein.

**Section 5.08. Indemnification.**

The District shall indemnify the County, its officers, directors, employees and agents ("Indemnified Parties") for, and hold them harmless against any loss, cost, claim, liability or expense arising out of or in connection with the County's acceptance or administration of the County's duties hereunder or under the Bond Resolution (except any loss, liability or expense as may be adjudged by a court of competent jurisdiction to be attributable to the County's negligence or willful misconduct), including the cost and expense (including its counsel fees) of defending itself against any claim or liability in connection with the exercise or performance of any of its powers or duties under this Agreement. Such indemnity shall survive the termination or discharge of this Agreement or discharge of the Bonds.

**ARTICLE SIX**

**MISCELLANEOUS PROVISIONS**

**Section 6.01. Amendment.**

This Agreement may be amended only by an agreement in writing signed by both of the parties hereto.

**Section 6.02. Assignment.**

This Agreement may not be assigned by either party without the prior written consent of the other party.

**Section 6.03. Notices.**

Any request, demand, authorization, direction, notice, consent, waiver or other document provided or permitted hereby to be given or furnished to the District or the County shall be mailed or delivered to the District or the County, respectively, at the address shown herein, or such other address as may have been given by one party to the other by fifteen (15) days written notice.

**Section 6.04. Effect of Headings.**

The Article and Section headings herein are for convenience of reference only and shall not affect the construction hereof.

**Section 6.05. Successors and Assigns.**

All covenants and agreements herein by the District and the County shall bind their successors and assigns, whether so expressed or not.

**Section 6.06. Severability.**

If any provision of this Agreement shall be determined to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby.

**Section 6.07. Benefits of Agreement.**

Nothing herein, express or implied, shall give to any Person, other than the parties hereto and their successors hereunder, any benefit or any legal or equitable right, remedy or claim hereunder.

**Section 6.08. Entire Agreement.**

This Agreement and the Bond Resolution constitute the entire agreement between the parties hereto relative to the County acting as Paying Agent and Registrar.

**Section 6.09. Counterparts.**

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which shall constitute one and the same Agreement.

**Section 6.10. Term and Termination.**

This Agreement shall be effective from and after its date and until the County resigns or is removed by an instrument filed with the County and signed by the District in accordance with the Bond Resolution. The County may resign at any time and be discharged of its duties and obligations by giving written notice thereof to the District. If the County shall resign, be removed or become incapable of acting, the District shall promptly appoint a successor Paying Agent and Registrar. A successor Paying Agent shall be appointed by the District with the written consent of the County Treasurer, which consent shall not be unreasonably withheld. If an instrument of acceptance by a successor Paying Agent and

Registrar shall not have been delivered to the County within thirty days after the County gives notice of resignation, the County may petition any court of competent jurisdiction at the expense of the District for the appointment of a successor Paying Agent and Registrar. In the event of resignation or removal of the County as Paying Agent and Registrar, upon the written request of the District and upon payment of all amounts owing to the County hereunder the County shall deliver to the District or its designee all funds and unauthenticated Bonds, and a copy of the Bond Register. The provisions of Section 5.08 hereof shall survive and remain in full force and effect following the termination of this Agreement.

**Section 6.11. Governing Law.**

This Agreement shall be construed in accordance with and shall be governed by the laws of the State of California.

**Section 6.12. Documents to be Filed with County.**

At the time of the County's appointment as Paying Agent and Registrar, the District shall file with the County the following documents: (a) certified copies of the Bond Resolution and a specimen Bond; (b) a copy of the opinion of bond counsel provided to the District in connection with the issuance of the Bonds; (c) a District Request containing written instructions to the County with respect to the issuance and delivery of the Bonds, including the name of the Registered Owners and the denominations of the Bonds; and (d) if bond proceeds are to be held at the County, a Closing Memorandum Addendum, to be reviewed by Bond Counsel, providing instructions to the County for the deposit of all bond proceeds.

**Section 6.13. Conflicts.**

Notwithstanding any provision herein to the contrary, in the event of any conflict between the terms of the Agreement and the Resolution, the terms of the Resolution shall govern.



IN WITNESS WHEREOF, the District has caused this Paying Agent Agreement to be signed in its name by its representative thereunto duly authorized, and the County has caused this Paying Agent Agreement to be signed in its name by its officer thereunto duly authorized, all as of the day and year first above written.

CARLSBAD UNIFIED SCHOOL DISTRICT

By: \_\_\_\_\_  
Deputy Superintendent, Administrative Services

COUNTY OF SAN DIEGO, OFFICE OF THE  
TREASURER-TAX COLLECTOR OF THE COUNTY  
OF SAN DIEGO, CALIFORNIA, as Paying Agent

By: \_\_\_\_\_  
Treasurer-Tax Collector or Designee

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Senior Deputy County Counsel

## **EXHIBIT A**

### **PAYING AGENT FEE SCHEDULE**

<u>Service Type</u>	<u>Fee</u>	<u>Frequency</u>
A bond with no series	\$1,500 per issue	At closing and annually
A bond with series	\$1,000 per issue	
Each additional series	Add \$500 per series	At closing and \$1,500 annually

Note: The District is responsible for any extraordinary costs associated with paying agent activities as provided in Section 2.02. The District will be notified of any extraordinary costs.